APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,825	09/18/2006	Eiko Seidel	L7725.06102	2113

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EXAMINER
ABRAHAM, ESAW T

ART UNIT	PAPER NUMBER
2112	

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10/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/567,825	SEIDEL ET AL.
	Examiner	**Art Unit**	
	ESAW T. ABRAHAM	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *40-80* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *40-80* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Preliminary Amendment

1.   The preliminary amendment filed on 06/21/06 has been entered.

2.   Claims **40-80** are presented for examination

Oath Declaration

3.   The oath/declaration filed on 09/18/06 is acceptable.

Information Disclosure Statement

4.   The Information Disclosure Statements filed on 02/10/06, 06/19/06 and 12/19/06 have

been considered.

Priority

5.   Acknowledgment is made of applicant's claim for **foreign priority** under 35 U.S.C.

119(a)-(d) which papers have been placed of record in the file.

Drawings

6.   The formal drawings filed on 02/10/06 are accepted.

Claim Objections

7.   Claims 40, 41, 54, 56, 72 and 73 are objected to because of the following informalities:

        In line 13 of claim 40, the claim recites, "using the time elapsed" and it should recite,

"using an elapsed time" to show proper antecedent.

In line 14, claim 40 recites, "soft buffer in order to flush" and it should recite, "soft buffer to flush" to show proper antecedent.

In lines 3 and 4, claim 41 recites, "soft buffer in order to be combined with a retransmitted" and it should recite "soft buffer combined with a retransmitted" to show proper antecedent.

In claim 54, please define the full word of a written word or phrase for the abbreviations "NBAP" as specified in the specification.

In claim 56, please define the full word of a written word or phrase for the abbreviations "IE" as specified in the specification.

In line 11 of claim 72, the claim recites, "operable to use the time elapsed" and it should recite, "operated to use an elapsed time" to show proper antecedent.

In line 12, claim 72 recites, "soft buffer in order to flush" and it should recite, "soft buffer to flush" to show proper antecedent.

In line 3, claim 73 recites, "soft buffer in order to be combined with a retransmitted" and it should recite "soft buffer combined with a retransmitted" to show proper antecedent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S. C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.   Claims **40-80** are rejected under 35 U.S.C. 102(e) as being anticipated by Vayanos et al.

(U.S. PN: 6,901,063) "hereinafter as Vayanos".

As per claims 40 and 72:

Vayanos substantially teaches a base station and a method for receiving data in a data

retransmission scheme in a mobile communication system comprising a communication terminal

and a plurality of base stations, wherein said communication terminal is in communication with

said plurality of base stations during a soft handover (see figure 1, col. 1, lines 15-19 and col. 4,

lines 12-34), the method comprising receiving data from the communication terminal by at least

one of the base stations (see col. 19, lines 55-67), storing said received data in an associated soft

buffer of said at least one of the base stations (see figure 9B blocks 954, 948, figure 9C block

974 and col. 21, lines 15-37), decoding said received data at said at least one of the base stations

(see figure 9B block 958 and col. 21, lines 38-53), and using the time elapsed since storing said

data in the associated soft buffer in order to flush the soft buffer (see col. 20, lines 46-60, col. 21,

lines 58-67 and col. 22, lines 1-5).

As per claims 41, 73 and 79:

Vayanos in view of the above rejection teaches wherein the data is stored in the

associated soft buffer in order to be combined with a retransmitted data if the received

data is not decoded successfully (see figure 9A block 952 and col. 21, lines 10-14).

As per claims 42 and 74:

Vayanos in view of the above rejection teaches flushing the soft buffer based on

the elapsed time (see figure 9C block 974).

As per claim 43:

Vayanos in view of the above rejection teaches wherein if said received data is decoded successfully, the soft buffer is flushed (see figure 9D block 984).

As per claims 44, 75 and 80:

Vayanos in view of the above rejection teaches wherein the soft buffer is flushed, if the elapsed time is equal to or larger than a threshold time period (see col. 20, lines 46-60, col. 21, lines 58-67 and col. 22, lines 1-5).

As per claim 45:

Vayanos in view of the above rejection teaches wherein the soft buffer is flushed, if the elapsed time is equal to or larger than a threshold time period (see col. 20, lines 46-60 and col. 21, lines 58-67 and col. 22, lines 1-5).

As per claims 46 and 76:

Vayanos in view of the above rejection teaches wherein the threshold time period is defined as a period after which a retransmission data can no longer be expected in the base station (see col. 20, lines 46-60).

As per claims 47 and 77:

Vayanos in view of the above rejection teaches receiving a retransmission data from the communication terminal by at least one of the base stations, storing said received retransmission data in an associated soft buffer, decoding said received retransmission data, and if the received

retransmission data is not decoded successfully, restarting the elapsed time (see col. 2, lines 48-67 to col. 3, lines 1-9 and col. 21, lines 15-53).

As per claims 48 and 78:

Vayanos in view of the above rejection teaches receiving a retransmission data from the communication terminal by at least of the base stations, storing said received retransmission data in an associated soft buffer, decoding said received retransmission data, and if said received retransmission data is decoded successfully, stopping the elapsed time (see col. 2, lines 48-67 to col. 3, lines 1-9 and figure 9A steps 926, 930, 932, 934).

As per claim 49:

Vayanos in view of the above rejection teaches combining a retransmission data with the previously received data to produce a combined data, and decoding the combined data (see figure 9A block 952 and col. 21, lines 10-14).

As per claims 50-52:

Vayanos in view of the above rejection teaches if the elapsed time is equal to or larger than a threshold time period, stopping the elapsed time (see col. 2, lines 48-67 to col. 3, lines 1-9 and figure 9A steps 926, 930, 932, 934).

As per claims 53-56:

Vayanos in view of the above rejection teaches signaling the duration of said threshold time period to said at least one of the base stations by radio network control signaling from a control unit in the mobile communication network (see col. 4, lines 12-35).

As per claims 57-58:

Vayanos in view of the above rejection teaches transmitting a message from at least one of the base stations to the communication terminal indicating whether said at least one of the base stations decoded said received data successively (see col. 20, lines 45-67).

As per claims 59-61:

Vayanos in view of the above rejection teaches receiving a capacity request message from said communication terminal by at least one of the base stations requesting additional transmission capacity for a retransmission data (see col. 21, lines 5-14).

As per claim 62:

Vayanos in view of the above rejection wherein the data is received via a dedicated channel (see figure 9A blocks 924 and 926).

As per claims 63 and 64:

Vayanos in view of the above rejection receiving a restart request message from said communication terminal by at least one of the base stations, wherein said restart request message indicates data for which the elapsed time has to be restarted (see figure 9A blocks 924 and 926).

As per claims 65 and 66:

Vayanos in view of the above rejection wherein said data retransmission scheme is a

window-based data retransmission scheme, and the method further comprises calculating said

threshold time period based on the time required for the transmission of all data within a window

of the data retransmission scheme (see col. 9, lines 21-67).

As per claims 67 and 68:

Vayanos in view of the above rejection wherein calculating said threshold time period

based on the time interval between the reception of an initial data and the reception of a

retransmission data (see col. 10, lines 1-40).

As per claims 69 and 70:

Vayanos in view of the above rejection wherein calculating the duration of said threshold

time period based on the size of said soft buffer, a maximum number of retransmissions in the

data retransmission scheme, a communication terminal's processing time for a feedback message,

a respective base station's processing time for a received data and a transmission time interval

(see col. 21, lines 5-37).

As per claim 71:

Vayanos in view of the above rejection wherein a base station in a mobile communication

system comprising a communication terminal and a plurality of base stations, wherein said base

station comprises means for implementing the method according to claim 40 (see figure 1 and

col. 4, lines 13-24).

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812.

The examiner can normally be reached on M-F 8am-4PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EA/

                                                /Esaw T Abraham/
                                                Examiner, Art Unit 2112
                                                08/28/08